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ATAIN SPECIALTY INSURANCE COMPANY  
7 f/k/a USF INSURANCE COMPANY

8 UNITED STATES DISTRICT COURT  
9  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN FRANCISCO DIVISION

12 ATAIN SPECIALTY INSURANCE  
13 COMPANY f/k/a USF INSURANCE  
14 COMPANY, a Michigan corporation,,  
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16 Plaintiff,

17 v.

18 NORTH BAY WATERPROOFING, INC.,  
a California corporation; OPUS WEST  
CONSTRUCTION CORPORATION, a  
Minnesota corporation  
19

20 Defendants.

Case No. 3:12-cv-03339-JST

~~PROPOSED~~ JUDGMENT

Judge: Hon. Jon S. Tigar

21 On April 30, 2013, the Court issued an Order Granting Summary Judgment in favor of  
22 plaintiff Atain Specialty Insurance Company ("Atain") and against defendants North Bay  
23 Waterproofing, Inc. ("North Bay") and Opus West Construction Corporation ("Opus West").  
24 (Docket 47.) For the reasons set forth in the Court's Order Granting Summary Judgment,

25 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

26 1. Judgment is hereby entered in favor of Plaintiff Atain and against defendants  
27 North Bay and Opus West.  
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~~PROPOSED~~ JUDGMENT

CASE NO. 3:12-CV-03339-JST

1           2.       The "Total Residential Exclusion" contained in each of the Atain policies clearly  
2 and explicitly excludes coverage for residential projects, and the plain meaning of "residential" in  
3 the exclusion includes within it the apartment complex located at 3680 Kelsey Knolls, Santa  
4 Rosa, California (the "Subject Property"), property that is the subject of claims asserted in the  
5 underlying action styled *STRS v. Alcal/Arcade Contracting, Inc., et al.*, Case No. SCV-246738  
6 pending in the Superior Court of California, County of Sonoma (the "*STRS* Action").

7           3.       The "Total Residential Exclusion" contained in each of the Atain policies therefore  
8 applies to exclude coverage and any potential for coverage of the claims asserted against North  
9 Bay and Opus West in the *STRS* Action.

10          4.       Accordingly, Atain has no duty to defend or indemnify North Bay or Opus West  
11 under Atain Policy Nos. PRB12342, PRB12676, or PRB12952 with respect to the claims asserted  
12 in the action styled *STRS v. Alcal/Arcade Contracting, Inc., et al.*, Case No. SCV-246738 pending  
13 in the Superior Court of California, County of Sonoma or which arise out of the construction of  
14 the Subject Property.

15               **IT IS SO ORDERED.**

16  
17 Dated: May 6, 2013

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19 \_\_\_\_\_  
20 HON. JON S. TIGAR  
21 UNITED STATES DISTRICT JUDGE  
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